



FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE BEGINNING OF ADMINISTRATIVE FINE CASE # 2207

DATE SCANNED 7-5-11

SCANNER NO. 2

SCAN OPERATOR JMP

11092654592



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 10, 2010

MEMORANDUM

TO: THE COMMISSION

THROUGH: ALEC PALMER  
ACTING STAFF DIRECTOR

FROM: PATRICIA CARMONA *PC for PC*  
CHIEF COMPLIANCE OFFICER

DEBBIE CHACON *DC*  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION

BY: *ms* NATALIYA IOFFE/SARI PICKERALL/IAN WANDNER *DP* *ms*  
COMPLIANCE BRANCH

SUBJECT: REASON TO BELIEVE RECOMMENDATION – 2010 OCTOBER  
QUARTERLY REPORT (ELECTION SENSITIVE) FOR THE  
ADMINISTRATIVE FINE PROGRAM

Attached is a list of political committees and their treasurers who failed to file the 2010 October Quarterly Report in accordance with 2 U.S.C. 434(a). The October Quarterly Report was due on October 15, 2010.

Under the Administrative Fine Program, the October Quarterly Report is considered an election-sensitive filing for authorized committees supporting candidates involved in the general election as well as all unauthorized committees. For the committees listed on the attached RTB Circulation Report, the October Quarterly Report was an election-sensitive filing. The committees either filed the report more than five (5) days after the due date, failed to file the report or failed to file the report prior to four (4) days before the general election (considered a non-filed report). In accordance with the schedule of civil money penalties for reports at 11 C.F.R. 111.43, these committees should be assessed the civil money penalties included on the attached report.

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### **Recommendation**

1. Find reason to believe that the political committees and their treasurers listed on the RTB Circulation Report violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalties would be the amounts indicated on the RTB Circulation Report.
2. Send the appropriate letters.

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Federal Election Commission  
Reason to Believe Circulation Report  
2010 OCTOBER QUARTERLY Election Sensitive 10/15/2010 H\_S\_P\_UNAUTH

AF#	Committee ID	Committee Name	Candidate Name	Treasurer	Threshold	PV	Receipt Date	Days Late	LOA	RTB Penalty
2197	C00483495	BOB TURNER FOR CONGRESS	TURNER, ROBERT L	KEVIN P. TURNER	\$863,890	0	10/22/2010	7	\$219,885	\$2,725
2198	C00382275	BUTLER SNOW POLITICAL ACTION COMMITTEE		LUCIEN BOURGEOIS	\$148,869	0	10/25/2010	10	\$19,693	\$250

2200	C00462929	COMMITTEE TO ELECT RODERICK VEREEN FOR CONGRESS	VEREEN, RODERICK D	CHUCK MOGBO	\$190,936	1	10/26/2010	11	\$36,848	\$756
2201	C00355818	COUNCIL OF SCHOOL SUPERVISORS AND ADMINISTRATORS LOCAL 1 AFSA AFL-CIO		ANITA GOMEZ-PALACIO	\$123,952	1	12/2/2010	Not Filed	\$51,450	\$4,125
2202	C00442590	EFFECTIVE LEADERSHIP PAC		DENISE PETERSON	\$135,339	0		Not Filed	\$49,347	\$1,400
2203	C00428122	EMPOWERING EACH COMMUNITY PAC		THOMAS A. GENTILE	\$138,977	0	10/22/2010	7	\$6,200	\$180
2204	C00426072	GIANT EAGLE INC PAC		MARK J. MINNAUGH	\$128,583	0	10/22/2010	7	\$17,000	\$220

2206	C00015594	LOUISVILLE & JEFFERSON COUNTY REPUBLICAN EXECUTIVE COMMITTEE		COREY ALLEN KOELLNER	\$229,431	0	10/22/2010	7	\$9,490	\$180
2207	C00421008	METAL LATHERS LOCAL 46 PAC		ROBERT LEDWITH	\$194,795	3	11/19/2010	Not Filed	\$31,811	\$2,450
2208	C00254201	NATIONAL ASSOCIATION OF MORTGAGE BROKERS		ROY DELOACH	\$141,153	0	10/21/2010	6	\$11,551	\$210
2209	C00464305	TOWNE FOR CONGRESS	TOWNE, JAKE	JAKE TOWNE	\$100,782	0	10/22/2010	7	\$30,435	\$505
2210	C00381699	USINPAC		MILES C. HOGE	\$159,433	0		Not Filed	\$39,857	\$1,400
2211	C00165365	WACKENHUT CORPORATION POLITICAL ACTION COMM (WACKENHUT PAC)		JEFF CAPPELLETTI	\$115,931	0	10/22/2010	7	\$21,002	\$220

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
)  
Reason To Believe Recommendation - 2010 )  
October Quarterly Report (Election )  
Sensitive) For the Administrative Fine )  
Program: )

COMMITTEE TO ELECT RODERICK ) AF# 2200  
VEREEN FOR CONGRESS, and CHUCK )  
MOGBO as treasurer; )  
BUTLER SNOW POLITICAL ACTION ) AF# 2198  
COMMITTEE, and BOURGEOIS, )  
LUCIEN MR. as treasurer; )  
BOB TURNER FOR CONGRESS, and ) AF# 2197  
KEVIN P TURNER as treasurer; )  
EMPOWERING EACH COMMUNITY ) AF# 2203  
PAC, and THOMAS A GENTILE as )  
treasurer; )  
GIANT EAGLE INC PAC, and MARK J ) AF# 2204  
MINNAUGH as treasurer; )  
LOUISVILLE & JEFFERSON COUNTY ) AF# 2206  
REPUBLICAN EXECUTIVE )  
COMMITTEE, and KOELLNER, COREY )  
ALLEN MR. as treasurer; )  
TOWNE FOR CONGRESS, and JAKE ) AF# 2209  
TOWNE as treasurer; )  
WACKENHUT CORPORATION ) AF# 2211  
POLITICAL ACTION COMM )  
(WACKENHUT PAC), and JEFF )  
CAPPELLETTI as treasurer; )  
NATIONAL ASSOCIATION OF ) AF# 2208  
MORTGAGE BROKERS, and ROY )  
DELOACH as treasurer; )

COUNCIL OF SCHOOL SUPERVISORS ) AF# 2201  
AND ADMINISTRATORS LOCAL 1 )  
AFSA AFL-CIO, and GOMEZ- PALACIO, )  
ANITA as treasurer; )

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EFFECTIVE LEADERSHIP PAC, and	)	AF# 2202
DNISE PETERSON as treasurer;	)	
METAL LATHERS LOCAL 46 PAC, and	)	AF# 2207
ROBERT LEDWITH as treasurer;	)	
USINPAC, and HOGE, MILES C. MR. as	)	AF# 2210
treasurer;	)	

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on December 15, 2010 the Commission took the following actions on the Reason To Believe Recommendation - 2010 October Quarterly Report (Election Sensitive) For the Administrative Fine Program as recommended in the Reports Analysis Division's Memorandum dated December 10, 2010, on the following committees:

**AF#2200** Decided by a vote of 6-0 to: (1) find reason to believe that COMMITTEE TO ELECT RODERICK VEREEN FOR CONGRESS, and CHUCK MOGBO as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

**AF#2198** Decided by a vote of 6-0 to: (1) find reason to believe that BUTLER SNOW POLITICAL ACTION COMMITTEE, and BOURGEOIS, LUCIEN MR. as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

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AF#2197 Decided by a vote of 6-0 to: (1) find reason to believe that BOB TURNER FOR CONGRESS, and KEVIN P TURNER as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2203 Decided by a vote of 6-0 to: (1) find reason to believe that EMPOWERING EACH COMMUNITY PAC, and THOMAS A GENTILE as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2204 Decided by a vote of 6-0 to: (1) find reason to believe that GIANT EAGLE INC PAC, and MARK J MINNAUGH as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2206 Decided by a vote of 6-0 to: (1) find reason to believe that LOUISVILLE & JEFFERSON COUNTY REPUBLICAN EXECUTIVE COMMITTEE, and KOELLNER, COREY ALLEN MR. as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2209 Decided by a vote of 6-0 to: (1) find reason to believe that TOWNE FOR CONGRESS, and JAKE TOWNE as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2211 Decided by a vote of 6-0 to: (1) find reason to believe that WACKENHUT CORPORATION POLITICAL ACTION COMM (WACKENHUT PAC), and JEFF CAPPELLETTI as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2208 Decided by a vote of 6-0 to: (1) find reason to believe that NATIONAL ASSOCIATION OF MORTGAGE BROKERS, and ROY DELOACH as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter.

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Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2201 Decided by a vote of 6-0 to: (1) find reason to believe that COUNCIL OF SCHOOL SUPERVISORS AND ADMINISTRATORS LOCAL 1 AFSA AFL-CIO, and GOMEZ- PALACIO, ANITA as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2202 Decided by a vote of 6-0 to: (1) find reason to believe that EFFECTIVE LEADERSHIP PAC, and DENISE PETERSON as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2207 Decided by a vote of 6-0 to: (1) find reason to believe that METAL LATHERS LOCAL 46 PAC, and ROBERT LEDWITH as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

AF#2210 Decided by a vote of 6-0 to: (1) find reason to believe that USINPAC, and HOGE, MILES C. MR. as treasurer violated 2 U.S.C. 434(a) and make a preliminary determination that the civil money penalty would be the amount indicated on the report; (2) send the appropriate letter. Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

December 17, 2010  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

December 21, 2010

Robert Ledwith, in official capacity as Treasurer  
Metal Lathers Local 46 PAC  
1322 Third Avenue  
New York, NY 10021

C00421008

AF#: 2207

Dear Mr. Ledwith:

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires that your committee file an October Quarterly Report of Receipts and Disbursements in a calendar year during which there is a regularly scheduled election. This report, covering the period through September 30th, shall be filed no later than October 15th. 2 U.S.C. § 434(a). Because records at the Federal Election Commission ("FEC") indicate that this report was not filed prior to four (4) days before the general election held on November 2, 2010, it is considered not filed for the purpose of calculating the civil money penalty.

The Act was further amended in 1999 to permit the FEC to impose civil money penalties for violations of the reporting requirements of 2 U.S.C. § 434(a). 2 U.S.C. § 437g(a)(4). On December 15, 2010, the FEC found that there is reason to believe ("RTB") that Metal Lathers Local 46 PAC and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) by failing to file timely this report on or before October 15th.

Based on the FEC's schedules of civil money penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at the RTB stage is \$2,450. Please see the attached copy of the Commission's administrative fine regulations at 11 C.F.R. §§ 111.30-111.46. Attachment 1. The Commission's website contains further information about how the administrative fine program works and how the fines are calculated. See <http://www.fec.gov/af/af.shtml>. 11 C.F.R. § 111.34. Your payment of \$2,450 is due within forty (40) days of the finding, or by January 24, 2011, and is based on these factors:

Election Sensitivity of Report: Election Sensitive

Level of Activity: \$31,811

Number of Days Late: Not Filed (reports not filed prior to four (4) days before the General Election held on November 2, 2010 are considered not filed for the purpose of calculating the penalty)

Number of Previous Civil Money Penalties Assessed: 3

At this juncture, the following courses of action are available to you:

Attachment 3

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### 1. If You Choose to Challenge the RTB Finding and/or Civil Money Penalty

If you should decide to challenge the RTB finding and/or calculated civil money penalty, you must submit a written response, including the AF# found at the top of page 1 under your committee's identification number, to the FEC's Office of Administrative Review, 999 E Street, NW, Washington, DC 20463. Your response must be received within forty (40) days of the Commission's RTB finding, or January 24, 2011. 11 C.F.R. § 111.35(a). Your written response must include the reason(s) why you are challenging the RTB finding and/or calculated civil money penalty, and must include the factual basis supporting the reason(s) and supporting documentation. The FEC strongly encourages that documents be submitted in the form of affidavits or declarations. 11 C.F.R. § 111.36(c).

The FEC will only consider challenges that are based on at least one of three grounds: (1) a factual error in the RTB finding; (2) miscalculation of the calculated civil money penalty by the FEC; or (3) your demonstrated use of best efforts to file in a timely manner when prevented from doing so by reasonably unforeseen circumstances that were beyond your control. 11 C.F.R. § 111.35(b). In order for a challenge to be considered on the basis of best efforts, you must have filed the required report no later than 24 hours after the end of these reasonably unforeseen circumstances. *Id.* Examples of circumstances that will be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) a failure of Commission computers or Commission-provided software despite your seeking technical assistance from Commission personnel and resources; (2) a widespread disruption of information transmissions over the Internet that is not caused by a failure of the Commission's or your computer systems or Internet service provider; and (3) severe weather or other disaster-related incident. 11 C.F.R. § 111.35(c). Examples of circumstances that will not be considered reasonably unforeseen and beyond your control include, but are not limited to, (1) negligence; (2) delays caused by vendors or contractors; (3) treasurer and staff illness, inexperience or unavailability; (4) committee computer, software, or Internet service provider failures; (5) failure to know filing dates; and (6) failure to use filing software properly. 11 C.F.R. § 111.35(d).

The "failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver" of your right to present such argument in a petition to the U.S. district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

If you intend to be represented by counsel, please advise the Office of Administrative Review. You should provide, in writing, the name, address and telephone number of your counsel and authorize counsel to receive notifications and communications relating to this challenge and imposition of the calculated civil money penalty.

### 2. If You Choose Not to Pay the Civil Money Penalty and Not to Submit a Challenge

If you do not pay the calculated civil money penalty and do not submit a written response, the FEC will assume that the preceding factual allegations are true and make a final determination that Metal Lathers Local 46 PAC and you, in your official capacity as treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty.

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA"), as amended by the Debt Collection Attachment 3

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Improvement Act of 1996, 31 U.S.C. § 3701 *et seq.* The FEC may take any and all appropriate action authorized and required by the DCA, as amended, including transfer to the U.S. Department of the Treasury for collection. 11 C.F.R. § 111.51(a)(2).

**3. If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the calculated civil money penalty, send the enclosed remittance form, along with your payment, to the FEC at the address on page 4. Upon receipt of your payment, the FEC will send you a final determination letter.

This matter was generated based on information ascertained by the FEC in the normal course of carrying out its supervisory responsibilities. 2 U.S.C. § 437g(a)(2). It will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 437g(a)(12)(A) until it is placed on the public record in accordance with 11 C.F.R. § 111.42, unless you notify the FEC in writing that you wish the matter to be made public.

As noted earlier, you may obtain additional information on the FEC's administrative fine program, including the final regulations, on the FEC's website at <http://www.fec.gov/af/af.shtml>. If you have questions regarding the payment of the calculated civil money penalty, please contact Sari Pickerall in the Reports Analysis Division at our toll free number (800) 424-9530 (at the prompt press 5) or (202) 694-1130. If you have questions regarding the submission of a challenge, please contact the Office of Administrative Review at our toll free number (800) 424-9530 (press 0, then ext. 1660) or (202) 694-1660.

On behalf of the Commission,



Cynthia L. Bauerly  
Vice Chair

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**ADMINISTRATIVE FINE REMITTANCE & PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the amount of your civil money penalty calculated at RTB is \$2,450 for the 2010 October Quarterly Report.

Please mail this remittance with a check or money order made payable to the Federal Election Commission to the following address:

Federal Election Commission  
P.O. Box 979058  
St. Louis, MO 63197-9000

If you choose to send your remittance and payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC #979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The remittance and your payment are due by January 24, 2011. Upon receipt of your remittance and payment, the FEC will send you a final determination letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTS). Your account will be electronically debited for the amount on your check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**

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FOR: Metal Lathers Local 46 PAC

FEC ID#: C00421008

AF#: 2207

PAYMENT DUE DATE: January 24, 2011

PAYMENT AMOUNT DUE: \$2,450



2011 JAN 24 P 1:13

An Independent Firm Associated with Moore Stephens International LTD

January 21, 2011

Jeffrey Goldstein  
Audit Manager  
+1.516.336.2464  
jgoldstein@grassicpas.com

**BY OVERNIGHT DELIVERY**

Office of Administrative Review  
Federal Election Commission  
999 E Street, NW  
Washington, D.C. 20463

Re: Metal Lathers Local 46 PAC (C00421008)  
AF# 2207  
Challenge to RTB Finding and Civil Money Penalty

Dear Office of Administrative Review:

As the accountants for the above-referenced political action committee, we hereby submit this challenge to:

- the Commission's finding of December 15, 2010, as set forth in the Commission's notice dated December 21, 2010 (copy enclosed), that the Committee failed to file timely its October Quarterly Report of Receipts and Disbursements, and
- the Commission's imposition of a \$2,450 civil money penalty, also as set forth in the Commission's notice dated December 21, 2010, which alleges three previously-assessed civil money penalties.

As more fully discussed below, the penalty should be removed because reasonably unforeseen circumstances beyond the Committee's control prevented the report from being timely filed or, alternatively, the penalty should be reduced because the Commission miscalculated the amount of the penalty. See 11 C.F.R. § 111.35(b).

As the enclosed affidavit of Michael Kesner, CPA, indicates, Mr. Kesner, an employee of our firm, timely prepared and attempted to file electronically the report at issue. In response to his attempted electronic filing, Mr. Kesner received notification from the Commission's website that the report was "validated." Mr. Kesner received no further notification from the Commission's website concerning whether the report was timely filed.

On November 19, 2010, Mr. Kesner received the Commission's notice dated November 4, 2010 (copy enclosed), indicating a possible failure to file. Mr. Kesner immediately contacted the Commission and learned that a mere validated report, electronically filed, was not a filed report. The Commission further informed Mr. Kesner that the Commission's software should have informed him that the report was not yet

**HEADQUARTERS:**

50 Jericho Quadrangle  
Jericho, New York 11753  
(516) 256-3500 ■ Fax (516) 256-3510

Manhattan, NY: (646) 273-1300  
www.grassicpas.com

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filed, but he never received that notification. (Apparently, as the Commission also informed Mr. Kesner, our firm evidently did not have the latest Commission software, but we were not made aware of this until Mr. Kesner's contact with the Commission on November 19, 2010). Upon concluding his conversation with the Commission personnel, Mr. Kesner immediately sent the report for filing.

The failure of the Commission's software to notify Mr. Kesner that the report was not filed should thus be considered a reasonably unforeseen circumstance beyond the Committee's control (and beyond the control of the Committee's report preparers) that prevented the timely filing of the report. See 11 C.F.R. § 111.35(c)(1). Additionally, Mr. Kesner's immediate actions to remedy the late filing indicate that the Committee used its best efforts to file in a timely manner. See 11 C.F.R. § 111.35(b)(3). The Commission's penalty should therefore be removed.

Alternatively, the Commission's penalty, if not removed, should be reduced. According to the Commission's notice of December 21, 2010, the Committee has had three previously-assessed penalties. The Committee, however, is not aware of any previous penalties. The penalty, if it should stand, should therefore be reduced to \$1,400. See 11 C.F.R. § 111.43(b).

Accordingly, for the foregoing reasons, the \$2,450 penalty should be removed. Alternatively, if not removed, the penalty should be reduced to \$1,400.

My declaration follows my signature, below. Please let us know if you require further information. Thank you for your consideration in this matter.

Sincerely,




Jeffrey Goldstein

Enclosures

**DECLARATION**

I declare under penalties of perjury that I, and those working in conjunction with me, prepared the foregoing challenge and that the facts as set forth therein and in the enclosed supporting materials are true, correct, and complete to the best of my knowledge and belief.



Jeffrey Goldstein

Date: January 21, 2011

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Via First Class Mail

January 24, 2011

Robert Ledwith, in his official capacity as Treasurer  
Metal Lathers Local 46 PAC  
1322 Third Avenue  
New York, NY 10021

C00421008  
AF#: 2207

Dear Mr. Ledwith:

On January 24, 2011, the Commission's Office of Administrative Review ("OAR") received your written response ("challenge") which is being reviewed by OAR. If you have any questions regarding your challenge, please contact this Office on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

Sincerely,

A handwritten signature in black ink, appearing to read "Dayna C. Brown".

Dayna C. Brown  
Reviewing Officer  
Office of Administrative Review

11092654606

**2011 JAN 26 A 7 02**

**Date: January 25, 2011**

**REFERRAL TO OFFICE OF ADMINISTRATIVE REVIEW  
CHALLENGE RECEIVED**

**AF#: 2207**

**Committee Name: Metal Lathers Local 46 PAC**

**Committee ID#: C00421008**

**Committee Address (if different than in RTB letter): N/A**

**Treasurer Name (if different than in RTB finding): N/A**

**Attachments:**

**Copy of RTB Circulation Report, dated December 10, 2010 and RTB  
Certification, dated December 15, 2010 (Y/N): N**

**Attachment #: N/A**

**Proof of Delivery (to be forwarded at later date if not yet received) (Y/N): Y**

**Attachment #: 1**

**Other Relevant Telecoms (Y/N): N**

**Attachment #: N/A**

**Original Correspondence Received by RAD in Response to RTB Letter (Y/N): N**

**Attachment #: N/A**

**RAD Staff Declaration (Y/N): Y**

**-2010 October Quarterly Report Prior Notice, dated September 21, 2010**

**-Non-Filer Notice, dated November 4, 2010.**

**-RTB Letter, dated December 21, 2010.**

**Attachment #: 3**

**Other RAD Information: (Y/N): N**

**Attachment#: N/A**

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**Dear Customer,**

**This notice serves as proof of delivery for the shipment listed below.**

<b>Tracking Number:</b>	1Z WF5 860 A2 9699 884 3
<b>Reference Number(s):</b>	RAD, 294C83CPFIR
<b>Service:</b>	NEXT DAY AIR
<b>Special Instructions:</b>	ADULT SIGNATURE REQUIRED
<b>Shipped/Billed On:</b>	12/22/2010
<b>Delivered On:</b>	12/23/2010 9:40 A.M.
<b>Delivered To:</b>	1322 3RD AVE NEW YORK, NY, US 10021

**Signed By:** JAMES

**Location:** RECEIVER

**Thank you for giving us this opportunity to serve you.**

**Sincerely,  
UPS**

Tracking results provided by UPS: 12/28/2010 11:51 A.M. ET

## Attachment 1

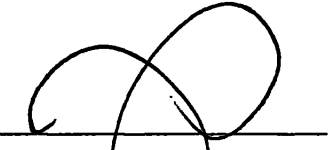
11092654608

## DECLARATION OF JODI WINSHIP

1. I am the Acting Chief of the Compliance Branch for the Reports Analysis Division of the Federal Election Commission ("Commission"). In my capacity as Acting Chief of the Compliance Branch, I oversee the initial processing of the Administrative Fine Program. I make this declaration based on my personal knowledge and, if called upon as a witness, could and would testify competently to the following matters.
2. I hereby certify that documents identified herein are true and accurate copies of the following sent by the Commission to Metal Lathers Local 46 PAC:
  - A) On September 21, 2010, Prior Notice referencing the 2010 October Quarterly Report was sent to Congressional Candidates, Parties and PACs registered with the FEC. The Prior Notice was also available on the FEC web site beginning on that date. Since Metal Lathers Local 46 PAC did not provide a current email address to the FEC on their Statement of Organization (FEC Form 1), they did not receive an electronic copy of the Prior Notice via email on September 21, 2010;
  - B) Non-Filer Letter, dated November 4, 2010, referencing the 2010 October Quarterly Report;
  - C) Reason-to-Believe Letter, dated December 21, 2010, referencing the 2010 October Quarterly Report.

I hereby certify that I have searched the Commission's public records and find that Metal Lathers Local 46 PAC filed the 2010 October Quarterly Report with the Commission on November 19, 2010.

3. Pursuant to 28 U.S.C. 1746, I declare under penalty of perjury that the foregoing is true and correct and that all relevant telecoms for the matter have been provided. This declaration was executed at Washington, D.C. on the 25th day of January, 2011.



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Jodi Winship  
Acting Chief, Compliance Branch  
Reports Analysis Division  
Federal Election Commission



# OCTOBER QUARTERLY REPORT NOTICE

FEDERAL ELECTION COMMISSION

CONGRESSIONAL COMMITTEES  
PARTIES AND PACS

September 21, 2010

## CURRENT REPORT DUE

REPORT	CLOSE OF BOOKS <sup>1</sup>	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
October Quarterly	09/30/10	10/15/10	10/15/10

## REPORTING SCHEDULE FOR REMAINDER OF 2010

REPORT	CLOSE OF BOOKS <sup>1</sup>	REG./CERT. & OVERNIGHT MAILING DEADLINE	FILING DEADLINE
Pre-General <sup>2</sup>	10/13/10	10/18/10	10/21/10
Post-General	11/22/10	12/02/10	12/02/10
Year-End	12/31/10	01/31/11	01/31/11

Supplemental Filing Information is available:

- Congressional Committees
- Parties and PACs

<sup>1</sup>A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered up through the close of books for the first report due.

<sup>2</sup>Parties and PACs: required only if committee makes contributions or expenditures in connection with the general election during the reporting period.

Congressional Committees: campaign committees of a candidate who participates in the general election must file pre-and post-general election reports.

## 2010 SUPPLEMENTAL FILING INFORMATION CONGRESSIONAL COMMITTEES

**PLEASE NOTE:** The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Act and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline.

### WHO MUST FILE

Principal campaign committees of congressional candidates <sup>1</sup> (including unopposed candidates and candidates whose names do not appear on the ballot) must file Quarterly Reports in 2010. <sup>2</sup>

Campaigns that raise or spend more than \$5,000 for the 2010 election cycle (and thus trigger registration and reporting requirements) must file quarterly reports throughout 2010, even if the candidate plans to retire, withdraws from the race prior to the primary election, loses the primary or drops out of the race prior to the general election. See 11 CFR 104.5(a)(2).

Before a committee can stop filing with the FEC, it must file a termination report with the Commission. See 11 CFR 102.3. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

### METHODS OF FILING REPORTS

#### Electronic Filing

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the filing deadline. See 11 CFR 104.5(e).

- Web Page: Electronic Filing Page
- Campaign Guide for Congressional Candidates and Committees (Candidate Guide), pp. 82-84 [PDF]

#### Paper Filing - Meeting the Filing Deadline

Paper Report filing options -- Registered, Certified or Overnight or First Class Mail.

See 11 CFR 104.5(e).

- Web Page: Link to Paper Forms (for downloading and printing)
- Candidate Guide, p. 81 [PDF]

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<sup>1</sup> Generally, an individual becomes a candidate for federal office (and thus triggers registration and reporting obligations) when his or her campaign exceeds \$5,000 in either contributions or expenditures. If the campaign has not crossed the \$5,000 threshold, it is not required to file reports. See 11 CFR 100.3(a).

<sup>2</sup> If a candidate has more than one authorized committee, the principal campaign committee must also file a consolidated report on Form 3Z [PDF].

## PRE- AND POST-ELECTION REPORTS

A committee whose candidate participates in a 2010 state primary, nominating convention or runoff election -- even if unopposed -- must also file a pre-election report 12 days prior to the primary, nominating convention or runoff. The campaign committee of a candidate who participates in the general election must file pre- and post-general election reports.

See 11 CFR 104.5(a)(2).

- Web Page: 2010 Congressional Pre-Primary Reporting Dates
- The Record: January 2010 issue [PDF]
- Candidate Guide, pp. 79-80 [PDF]

## 48 HOUR NOTICES ON CONTRIBUTIONS

Notices are required if the committee receives any contribution (including in-kind gifts or advances of goods or services; loans from the candidate or other non-bank sources; and guarantees or endorsements of bank loans to the candidate or committee) of \$1,000 or more per source, during the period less than 20 days but more than 48 hours before any election in which the candidate is running.

The notices must reach the appropriate federal filing office within 48 hours of the committee's receipt of the contribution(s). Campaign committees that file electronically **MUST** submit their 48-hour notices electronically. See 11 CFR 104.5(f).

- Web Page: Electronic Filing Page
- Web Page: Link to Paper Forms (for downloading and printing)
- Form 6 Fax numbers
  - Senate campaigns (Secretary of the Senate): (202) 224-1851
  - House Campaigns (FEC): (202) 219-0174
- Campaign Guide: Candidate Guide, p. 80 [PDF]

## COMPLIANCE

### Treasurer Responsibility

Committee Treasurers are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time.

See 11 CFR 104.14(d).

- Statement of Policy Regarding Treasurers Subject to Enforcement Proceedings [PDF]
- Candidate Guide, p. 7 [PDF]

### Administrative Fine Program

Political committees and their treasurers who fail to file their reports on time may be subject to civil money penalties up to \$17,600 (or more for repeat late- and non-filers).<sup>3</sup>

See 11 CFR 111.30.

- Web Page: Administrative Fine Program
- Candidate Guide, pp. 81-82 [PDF]

<sup>3</sup> Penalties for late- or non-filing of 48-hour notices are based on the amount of contributions not timely disclosed. As a result, these penalties may exceed \$17,600, even for first-time violations.

### DISCLOSURE OF LOBBYIST BUNDLING ACTIVITY

Campaign committees must file FEC Form 3L [PDF] if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of \$16,000 during the applicable reporting period (see page 1 of this notice). See 11 CFR 104.22 and 110.17(e).

- The Record: March 2009 issue [PDF]

### 2010 REPORTING SCHEDULE

- Web Page: 2010 Reporting Dates Page
- The Record: January 2010 issue [PDF]
- Candidate Guide, p. 79 [PDF]

### IMPORTANT FILING INFORMATION - PAPER FILERS

In response to the 2001 anthrax threat, the U.S. Postal Service is irradiating mail directed to many federal agencies, including the FEC and the Secretary of the Senate.<sup>4</sup> This process has not only delayed mail delivery, it has also damaged and in some cases destroyed pieces of mail. As a result, committees that file reports with the FEC may want to consider submitting their reports by some means other than U.S. mail. Alternative methods include electronic filing, overnight mail or delivery service, and hand delivery.

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<sup>4</sup> Senate committees should contact the Secretary of the Senate at (202) 224-0322 for more information on filing reports via US mail.

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**FOR INFORMATION, CALL: (800) 424-9530 or (202) 694-1100**

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## 2010 SUPPLEMENTAL FILING INFORMATION PACs AND PARTY COMMITTEES

**PLEASE NOTE:** The Commission provides reminders of upcoming filing dates as a courtesy to help committees comply with the filing deadlines set forth in the Act and Commission regulations. Committee treasurers must comply with all applicable filing deadlines established by law, and the lack of prior notice does not constitute an excuse for failing to comply with any filing deadline.

### WHO MUST FILE

All Party Committees and PACs (Nonconnected Committees and Separate Segregated Funds) must file either quarterly or monthly reports in 2010. See 11 CFR 104.5(c). Before a committee can stop filing with the FEC, it must file a termination report with the Commission. See 11 CFR 102.3. Committees must continue to file reports until the Commission notifies them in writing that their termination report has been accepted.

### METHODS OF FILING REPORTS

#### Electronic Filing

Reports filed electronically must be received and validated by the Commission by 11:59 p.m. Eastern Time on the filing deadline. See 11 CFR 104.5(e).

- Web Page: Electronic Filing Page
- Campaign Guide: Nonconnected Committees (Nonconnected), pp. 51-53 [PDF]; Corporations and Labor Organizations (SSF), pp. 49-51 [PDF]; Political Party Committees (Party), pp. 69-71 [PDF].

#### Paper Filing -- Meeting the Filing Deadline

Paper report filing options – Registered, Certified or Overnight or First Class Mail. See 11 CFR 104.5(e).

- Web Page: Link to Paper Forms (for downloading and printing)
- Campaign Guide: Nonconnected, pp. 47-48 [PDF]; SSF, pp. 45-46 [PDF]; Party, p. 65 [PDF].

### PRE-ELECTION REPORTING

Quarterly filing committees that make contributions or expenditures (including independent expenditures) in connection with an election must also file a Pre-Election Report, if the activity was not previously reported. See 11 CFR 104.5(c)(1)(ii).

- Web Page: 2010 Congressional Pre-Primary Reporting Dates Page
- The Record: January 2010 issue [PDF]
- Campaign Guide: Nonconnected, pp. 49-51 [PDF]; SSF, pp. 46-48 [PDF]; Party, pp. 67-68 [PDF].

### 2010 REPORTING SCHEDULE

- Web Page: 2010 Reporting Dates Page
- The Record: January 2010 issue [PDF]
- Campaign Guide: Nonconnected, pp. 49-51 [PDF]; SSF, pp. 46-48 [PDF]; Party, pp. 67-68 [PDF].

## COMPLIANCE

### Treasurer Responsibility

Committee treasurers are responsible for both the timeliness and the accuracy of all reports. They may be subject to monetary penalties if reports are inaccurate or are not filed on time. See 11 CFR 104.14(d).

- Statement of Policy Regarding Treasurers Subject to Enforcement Proceeding [PDF]
- Campaign Guide: Nonconnected, pp. 3-4 [PDF]; SSF, pp. 1-2 [PDF]; Party, pp. 6-7 [PDF].

### Administrative Fine Program

Failure to file reports on time may be subject to civil money penalties up to \$17,600 (or more for repeat late- or non-filers). See 11 CFR 111.30.

- Web Page: Administrative Fine Program Page
- Campaign Guide: Nonconnected, pp. 48-49 [PDF]; SSF, p. 46 [PDF]; Party, p. 66 [PDF].

## DISCLOSURE OF LOBBYIST BUNDLING ACTIVITY

Party committees and Leadership PACs must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of \$16,000 during the covered period (see page 1 of this notice).

See 11 CFR 104.22 and 110.17(e).

- The *Record*: March 2009 issue [PDF]
- Campaign Guide: Party, pp. 143-149 [PDF]

## CHANGE IN FILING FREQUENCY

Committees able to change their reporting schedule (for example, from monthly to quarterly) who wish to do so must notify the Commission in writing and may change their filing frequency no more than once per calendar year. See 11 CFR 104.5(c).

- Web Page: Filing Frequency by Type of Committee
- Campaign Guide: Nonconnected, p. 51 [PDF]; SSF, p. 49 [PDF]; Party, p. 67 [PDF].

## 48- AND 24-HOUR REPORTS OF INDEPENDENT EXPENDITURES

Any PAC or Party Committee that makes independent expenditures in 2010 may have to disclose this activity within 48- or 24-hours based upon the date and amount of the expenditure. See 11 CFR 104.4.

- Web Page: 48- and 24-hour periods for independent expenditures for 2010 elections
- Campaign Guide: Nonconnected, pp. 72-74 [PDF]; SSF, pp. 65-67 [PDF]; Party, pp. 87-89 [PDF].

These reports are not required when a PAC or Party Committee makes a contribution directly to a candidate.

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FOR INFORMATION, CALL: (800) 424-9530 or (202) 694-1100





FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 4, 2010

RQ-7

ROBERT LEDWITH, TREASURER  
METAL LATHERS LOCAL 46 PAC  
1322 THIRD AVENUE  
NEW YORK, NY 10021

IDENTIFICATION NUMBER: C00421008

REFERENCE: OCTOBER QUARTERLY REPORT 7/1/2010 - 9/30/2010

DEAR TREASURER:

IT HAS COME TO THE ATTENTION OF THE FEDERAL ELECTION COMMISSION THAT YOU MAY HAVE FAILED TO FILE THE ABOVE REFERENCED REPORT OF RECEIPTS AND EXPENDITURES AS REQUIRED BY THE FEDERAL ELECTION CAMPAIGN ACT, AS AMENDED.

IT IS IMPORTANT THAT YOU FILE THIS REPORT IMMEDIATELY WITH THE FEDERAL ELECTION COMMISSION, 999 E STREET, N.W., WASHINGTON, D.C., 20463. PLEASE NOTE THAT ELECTRONIC FILERS MUST SUBMIT THEIR REPORTS ELECTRONICALLY, AS PER 11 CFR §104.18. A COPY OF THE REPORT OR RELEVANT PORTIONS MUST ALSO BE FILED WITH THE SECRETARY OF THE STATE OR EQUIVALENT STATE OFFICER UNLESS THE STATE IS EXEMPT FROM THE FEDERAL REQUIREMENT TO RECEIVE AND MAINTAIN PAPER COPIES. YOU CAN VERIFY THE COMMISSION'S RECEIPT OF ANY DOCUMENTS SUBMITTED BY YOUR COMMITTEE ON THE FEC WEBSITE AT [WWW.FEC.GOV](http://WWW.FEC.GOV).

THE FAILURE TO TIMELY FILE THIS REPORT MAY RESULT IN CIVIL MONEY PENALTIES, AN AUDIT OR LEGAL ENFORCEMENT ACTION. THE CIVIL MONEY PENALTY CALCULATION FOR LATE REPORTS DOES NOT INCLUDE A GRACE PERIOD AND BEGINS ON THE DAY FOLLOWING THE DUE DATE FOR THE REPORT. DUE TO HEIGHTENED SECURITY SCREENING MEASURES, DELIVERY OF MAIL BY THE US POSTAL SERVICE MAY BE DELAYED. THE COMMISSION RECOMMENDS THAT YOU SUBMIT YOUR REPORT VIA OVERNIGHT DELIVERY OR COURIER SERVICE.

IF YOU HAVE ANY QUESTIONS REGARDING THIS MATTER, PLEASE CONTACT IAN WANDNER AT OUR TOLL FREE NUMBER (800)424-9530. OUR DIRECT LOCAL NUMBER IS (202)694-1130.

SINCERELY,

*Debbie Chacona*

DEBBIE CHACONA  
ASSISTANT STAFF DIRECTOR  
REPORTS ANALYSIS DIVISION (RAD)

Attachment 3

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

201 MAR 25 P 5:09

March 25, 2011 **SENSITIVE**

**MEMORANDUM**

To: The Commission

Through: Alec Palmer *for PC*  
Acting Staff Director

From: Patricia Carmona *PC*  
Chief Compliance Officer

Dayna C. Brown *DCB*  
Reviewing Officer  
Office of Administrative Review

Subject: Reviewing Officer Recommendation in AF# 2207 – Metal Lathers Local 46  
PAC and Robert Ledwith, in his official capacity as Treasurer (C00421008)

The attached Reviewing Officer Recommendation is being circulated on an informational basis. A copy was also sent to the respondents in accordance with 11 C.F.R. § 111.36(f). The respondents may file with the Commission Secretary a written response within 10 days of transmittal of the recommendation.

After the 10 day period, the Reviewing Officer Recommendation and the respondents' written response, if any, will be circulated to the Commission to make a final determination.

Attachment

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 25, 2011

**REVIEWING OFFICER RECOMMENDATION  
OFFICE OF ADMINISTRATIVE REVIEW ("OAR")**

AF# 2207 – Metal Lathers Local 46 PAC and Robert Ledwith, in his official capacity as  
Treasurer (C00421008)

**Summary of Recommendation**

Make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a \$2,450 civil money penalty.

**Reason-to-Believe Background**

On December 15, 2010, the Commission found reason to believe ("RTB") that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2010 October Quarterly Report and made a preliminary determination that the civil money penalty was \$2,450 based on the schedule of penalties at 11 C.F.R. § 111.43. A letter was mailed to the respondents' address of record from the Reports Analysis Division ("RAD") on December 21, 2010 to notify them of the Commission's RTB finding and civil money penalty.

**Legal Requirements**

The Federal Election Campaign Act ("Act") states that the treasurer of a committee not authorized by a candidate shall file, in an election year, a report for the period ending September 30 no later than October 15. 2 U.S.C. § 434(a)(4)(A)(i) and 11 C.F.R. § 104.5(c)(1)(i). Reports electronically filed must be received and validated at or before 11:59 p.m., Eastern Standard/Daylight Time on the prescribed filing date to be timely filed. 11 C.F.R. §§ 100.19(c) and 104.5 (e). The treasurer shall be personally responsible for the timely filing of reports. 11 C.F.R. § 104.14(d).

**Respondents' Challenge**

On January 24, 2011, the Commission received the written response ("challenge") from Jeffrey Goldstein of Grassi & Co., CPAs, P.C., an accounting firm, on behalf of the respondents. Mr. Goldstein states that Michael Kesser, an employee of the firm, prepared the report timely, attempted to electronically file it, and received a notification indicating that the report was validated. Upon the November 19 receipt of a notice indicating that the Committee may have failed to file the report, Mr. Kesser immediately contacted the Commission and was informed that a validated report was not a filed report, and filed the report that same day. Failure of the Commission's software to inform Mr. Kesser that the report was not filed, was a reasonably unforeseen circumstance beyond the Committee's control, and best efforts were used to file the report once they were notified. Should the penalty not be removed, Mr. Goldstein states that the penalty should be reduced to \$1,400, as the Committee is not aware of the three previous violations noted in the RTB letter.

Included with the challenge is the signed affidavit of Michael Kesner, a copy of the RTB letter, and a copy of the non-filer letter.

### Analysis

The 2010 October Quarterly Report was filed on November 19, 2010, 35 days late.

The challenge and affidavit assert that after receiving an electronic transmission from the Commission indicating that the report was validated, Mr. Kesner received no further notification regarding whether the report was timely filed. However, according to Commission records, on October 16, 2010, the day after the report was due, the Electronic Filing Office ("EFO") sent a non-filer email notification to "mkesner@grassicpas.com," alerting the respondents that they did not file the October Quarterly Report. The email was sent to the address provided by the respondents on the last report they uploaded. Commission records indicate that the last report filed by the respondents at the time the October Quarterly Report was due was the 2010 July Quarterly Report, and the filing confirmation receipt for this report was sent to "mkesner@grassicpas.com."

The Commission's Information Technology Division ("ITD") Manager explains that validation is a process whereby the report's data fields are checked to eliminate or minimize errors and this process does not constitute the filing of a report. Given that Mr. Kesner electronically filed the report due immediately before the October Quarterly Report in a successful and timely manner using the FECFile software, it appears that he was familiar with the process of validating, then uploading in order to complete the electronic filing process, and subsequently, receiving the filing confirmation receipt via email. Despite the failure of the respondents' accounting firm to follow the process used to timely electronically file the July Quarterly Report when filing the October Quarterly Report, the regulations are clear that the Treasurer is personally responsible for the timely and complete filing of reports, as well as the accuracy of the information they contain. 11 C.F.R. § 104.14(d).

The challenge also requests that the Commission reduce the fine, as the respondents are not aware of the three previous violations noted in their RTB letter. According to Commission records, the Commission made a final determination that the respondents failed to timely file the 2008 October Quarterly (AF# 1897), 12 Day Pre-General (AF# 1976), and 30 Day Post-General Reports (AF# 2011). Each of these civil money penalties has been paid, and the cases closed.

There are four criteria used to calculate the amount of the civil money penalty. 11 C.F.R. § 111.43. They are: the election sensitivity of a report, the number of days late, the level of activity on the late report, and the number of previous violations. The October Quarterly Report is an election sensitive report. The report, filed on November 19, discloses a level of activity of \$31,811, and is considered not filed for purposes of the civil money penalty calculation. 11 C.F.R. § 111.43(e)(2). Previous violations are defined as all prior final civil money penalties assessed during the current two-year election cycle and the prior two-year election cycle. 11 C.F.R. § 111.43(d)(4). The respondents have three final civil money penalties from the prior (2008) two-year election cycle and consequently have three previous violations. Therefore, using the schedule of penalties at 11 C.F.R. § 111.43(b) and the level of activity

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bracket of \$25,000 - \$49,999.99, the civil money penalty is  $\$1,400 \times [1 + (.25 \times 3)]$  or \$2,450, as was correctly calculated at RTB.

The other issue raised in the challenge, the firm's failure to be informed of the most recent version of the FECFile software, does not fall within the list of grounds enumerated at 11 C.F.R. § 111.35(b). Additionally, the ITD Manager confirms that the respondents' failure to have the most recent software did not prevent them from filing the report and states that several methods of communication are used to inform filers of software upgrades.

Failure to use filing software properly and delays caused by committee vendors or contractors (i.e. accounting firms) are included at 11 C.F.R. § 111.35(d) as examples of circumstances that are not reasonably unforeseen and beyond the control of the respondents. Their challenge fails to address any of the three valid grounds at 11 C.F.R. § 111.35(b). These are: (i) the RTB finding is based on factual errors; and/or (ii) the improper calculation of the civil money penalty; and/or (iii) they used best efforts to file on time but were prevented from doing so by reasonably unforeseen circumstances that were beyond their control and they filed the report no later than 24 hours after the end of these circumstances. The Reviewing Officer, therefore, recommends that the Commission make a final determination that the respondents violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$2,450.

#### **OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 2207 involving Metal Lathers Local 46 PAC and Robert Ledwith, in his official capacity as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 2207 that Metal Lathers Local 46 PAC and Robert Ledwith, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$2,450; and
- (3) Send the appropriate letter.

Reviewing Officer: Dayna C. Brown

#### **Attachments**

Attachment 1 – Challenge Received from Respondents

Attachment 2 –

Attachment 3 – Declaration from RAD

Attachment 4 – Declaration from OAR

**DECLARATION OF DAYNA C. BROWN**

1. I am the Reviewing Officer in the Office of Administrative Review for the Federal Election Commission ("Commission"). In my capacity as Reviewing Officer, I conduct research with respect to all challenges submitted in accordance with the Administrative Fine program.
2. The 2010 October Quarterly Report is due October 15, 2010. If electronically filed, it must be received and validated by the Commission at or before 11:59 p.m., Eastern Standard/Daylight Time on October 15, 2010 to be timely filed.
3. It is the practice of the Electronic Filing Office to document all calls to or from committees regarding an error message they receive while using the FECFile software. It is also this office's practice to maintain an Electronic Filing section on the Commission's web site at <http://www.fec.gov/electfil/electron.shtml> for the use of committees and treasurers who are electronic filers.
4. I hereby certify that I have searched the Commission's public records and that the documents identified herein are the true and accurate copies of Page 1 of the Summary Page and Pages 3 and 4 of the Detailed Summary Page for the 2010 October Quarterly Report electronically filed by Metal Lathers Local 46 PAC and Robert Ledwith, in his official capacity as Treasurer. According to the Commission's records, the report covers the period from July 1 through September 30, 2010, and was received on November 19, 2011. Line 20, column A lists \$28,811.45 in total federal receipts for the period. Line 32 lists \$3,000.00 in total federal disbursements for the period.
5. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Washington on the 25<sup>th</sup> of March 2011.



Dayna C. Brown  
Reviewing Officer  
Office of Administrative Review  
Federal Election Commission

11092654621

**FEC  
FORM 3X****REPORT OF RECEIPTS  
AND DISBURSEMENTS**  
For Other Than An Authorized Committee

Office Use Only

1. NAME OF  
COMMITTEE (in full)USE FEC MAILING LABEL  
OR TYPE OR PRINTExample: If typing, type  
over the lines

METAL LATHERS LOCAL 46 PAC

ADDRESS (number and street)

1322 THIRD AVENUE

Check if different  
than previously  
reported. (ACC)

NEW YORK

NY

10021

2. FEC IDENTIFICATION NUMBER

CITY

STATE

ZIP CODE

C00421008

3. IS THIS  
REPORT☒NEW  
(N)

OR

☐AMENDED  
(A)4. TYPE OF REPORT  
(Choose One)

(a) Quarterly Reports:

- ☐ April 15  
Quarterly Report(Q1)
- ☐ July 15  
Quarterly Report(Q2)
- ☒ October 15  
Quarterly Report(Q3)
- ☐ January 31  
Quarterly Report(YE)
- ☐ July 31 Mid-Year  
Report(Non-election  
Year Only) (MY)
- ☐ Termination Report  
(TER)

(b) Monthly  
Report  
Due On:☐ Feb 20 (M2)☐ May 20 (M5)☐ Aug 20 (M8)☐ Nov 20 (M11)  
(Non-Election  
Year Only)☐ Mar 20 (M3)☐ Jun 20 (M6)☐ Sep 20 (M9)☐ Dec 20 (M12)  
(Non-Election  
Year Only)☐ Apr 20 (M4)☐ Jul 20 (M7)☐ Oct 20 (M10)☐ Jan 31 (YE)(c) 12-Day  
PRE-Election  
Report for the:☐

Primary (12P)

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General (12G)

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Runoff (12R)

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Convention (12C)

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Special (12S)

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Runoff (30R)

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Election on

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State of☐

5. Covering Period

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2010

through

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2010

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer

ROBERT LEDWITH

Signature of Treasurer

Electronically Filed by ROBERT LEDWITH

Date

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19

2010

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C 437g.

Office  
Use  
Only**FEC FORM 3X**  
(Rev. 12/2004)

# **DETAILED SUMMARY PAGE OF RECEIPTS**

FEC Form 3X (Rev. 06/2004)

3 / 6

Write or Type Committee Name

METAL LATHERS LOCAL 46 PAC

Report Covering the Period:

From:

 M M D D Y Y Y Y  
 07 01 2010

To:

 M M D D Y Y Y Y  
 09 30 2010

I. Receipts	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
11. Contributions (other than loans) From:		
(a) Individuals/Persons Other Than Political Committees	0.00	0.00
(i) Itemized (use Schedule A) .....	28811.45	70661.99
(ii) Unitemized .....	28811.45	70661.99
(iii) TOTAL (add Lines 11(a)(i) and (ii)) .....	0.00	0.00
(b) Political Party Committees .....	0.00	0.00
(c) Other Political Committees (such as PACs) .....	0.00	0.00
(d) Total Contributions (add Lines 11(a)(iii), (b) and (c)) (Carry Totals to Line 33, page 5) .....	28811.45	70661.99
12. Transfers From Affiliated/Other Party Committees .....	0.00	0.00
13. All Loans Received .....	0.00	0.00
14. Loan Repayments Received .....	0.00	0.00
15. Offsets To Operating Expenditures (Refunds, Rebates, etc.) (Carry Totals to Line 37, page 5) .....	0.00	0.00
16. Refunds of Contributions Made to Federal candidates and Other Political Committees .....	0.00	0.00
17. Other Federal Receipts (Dividends, Interest, etc.) .....	0.00	0.00
18. Transfers from Non-Federal and Levin Funds		
(a) Non-Federal Account (from Schedule H3) .....	0.00	0.00
(b) Levin Funds (from Schedule H5) .....	0.00	0.00
(c) Total Transfer (add 18(a) and 18(b)) .....	0.00	0.00
19. Total Receipts (add Lines 11(d), 12, 13, 14, 15, 16, 17, and 18(c)) .....	28811.45	70661.99
20. Total Federal Receipts (subtract Line 18(c) from Line 19) .....	28811.45	70661.99



# DETAILED SUMMARY PAGE of Disbursements

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FEC Form 3X (Rev. 02/2003)

## II. DISBURSEMENTS

	COLUMN A Total This Period	COLUMN B Calendar Year-to-Date
21. Operating Expenditures:		
(a) Shared Federal/Non-Federal Activity (from Schedule H4)		
(i) Federal Share.....	0.00	0.00
(ii) Non-Federal Share.....	0.00	0.00
(b) Other Federal Operating Expenditures.....	0.00	0.00
(c) Total Operating Expenditures (add 21(a)(i), (a)(ii) and (b)).....	0.00	0.00
22. Transfers to Affiliated/Other Party Committees.....	0.00	0.00
23. Contributions to Federal Candidates/Committees and Other Political Committees.....	0.00	0.00
24. Independent Expenditure (use Schedule E).....	0.00	0.00
25. Coordinated Expenditures Made by Party Committees (2 U.S.C. 441a(d)) (use Schedule F).....	0.00	0.00
26. Loan Repayments Made.....	0.00	0.00
27. Loans Made.....	0.00	0.00
28. Refunds of Contributions To:		
(a) Individuals/Persons Other Than Political Committees.....	0.00	0.00
(b) Political Party Committees.....	0.00	0.00
(c) Other Political Committees (such as PACs).....	0.00	0.00
(d) Total Contribution Refunds (add Lines 28(a), (b), and (c)).....	0.00	0.00
29. Other Disbursements.....	3000.00	12000.00
30. Federal Election Activity (2 U.S.C. 431(20))		
(a) Shared Federal Election Activity (from Schedule H6)		
(i) Federal Share.....	0.00	0.00
(ii) "Levin" Share.....	0.00	0.00
(b) Federal Election Activity Paid Entirely With Federal Funds.....	0.00	0.00
(c) Total Federal Election Activity (add Lines 30(a)(i), 30(a)(ii) and 30(b))....	0.00	0.00
31. Total Disbursements (add Lines 21(c), 22, 23, 24, 25, 26, 27, 28(d), 29 and 30(c))..	3000.00	12000.00
32. Total Federal Disbursements (subtract Line 21(a)(ii) and Line 30(a)(ii) from Line 31).....	3000.00	12000.00

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

VIA OVERNIGHT DELIVERY

March 28, 2011

Robert Ledwith, in her official capacity as Treasurer  
Metal Lathers Local 46 PAC  
1322 Third Avenue  
New York, NY 10021

C00421008  
AF# 2207

Dear Mr. Ledwith:

On December 15, 2010, the Federal Election Commission ("Commission") found reason to believe ("RTB") that Metal Lathers Local 46 PAC and you, in your official capacity as Treasurer ("respondents"), violated 2 U.S.C. § 434(a) for failing to file the 2010 October Quarterly Report. The Commission also made a preliminary determination that the civil money penalty was \$2,450 based on the schedule of penalties at 11 C.F.R. § 111.43.

After reviewing the written response and any supplemental information submitted by you and Commission staff, the Reviewing Officer has recommended that the Commission make a final determination in this matter. A copy of the Reviewing Officer's recommendation is attached.

You may file with the Commission Secretary a written response to the recommendation within 10 days of the date of this letter. Your written response should be sent to the Commission Secretary, 999 E Street, NW, Washington, DC 20463. As a result of the anthrax threat in the Washington, DC area, US Postal Service mail delivery to federal agencies, including the Commission, has been interrupted. Until regular mail delivery resumes, you may also file your written response with the Commission Secretary via facsimile (202-208-3333) or by courier at the same address (if you use an overnight delivery service, please use zip code 20004 instead of zip code 20463). Please include the AF # in your response. Your response may not raise any arguments not raised in your original written response or not directly responsive to the Reviewing Officer's recommendation. 11 C.F.R. § 111.36(f). The Commission will then make a final determination in this matter.

Please contact me at the toll free number 860-424-9530 (press 0, then press 1660) or 202-694-1660 if you have any questions.

Sincerely,

Dayna C. Brown  
Reviewing Officer  
Office of Administrative Review

Attachment

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

47  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF THE  
SECRETARY

2011 APR 13 P 4:44

April 13, 2011

MEMORANDUM

**SENSITIVE**

To: The Commission

Through: Alec Palmer *AP*  
Acting Staff Director

From: Patricia Carmona *PC*  
Chief Compliance Officer

Dayna C. Brown *DB*  
Reviewing Officer  
Office of Administrative Review

Subject: Final Determination Recommendation in AF# 2207 – Metal Lathers Local 46 PAC and Robert Ledwith, in his official capacity as Treasurer (C00421008)

On December 15, 2010, the Commission found reason to believe (“RTB”) that the respondents violated 2 U.S.C. § 434(a) for failing to file the 2010 October Quarterly Report and also made a preliminary determination that the civil money penalty was \$2,450 based on the schedule of penalties at 11 C.F.R. § 111.43.

On January 24, 2011, the Commission received the respondents’ written response (“challenge”). After reviewing the challenge, the Reviewing Officer’s recommendation dated March 25, 2011 was forwarded to the Commission, a copy was forwarded to the respondents, and is hereby incorporated by reference. The Reviewing Officer recommended that the Commission make a final determination that they violated 2 U.S.C. § 434(a) and assess a \$2,450 civil money penalty because they submitted no evidence that a factual error was made in the RTB finding, that the penalty was miscalculated at RTB or that they used best efforts to file on time. 11 C.F.R. § 111.35(b).

Within 10 days of transmittal of the recommendation, they may file a written response with the Commission Secretary which may not raise any arguments not raised in their challenge or not directly responsive to the Reviewing Officer’s recommendation. 11 C.F.R. § 111.36(f). As of this date, a written response has not been received.

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### **OAR Recommendations**

- (1) Adopt the Reviewing Officer recommendation for AF# 2207 involving Metal Lathers Local 46 PAC and Robert Ledwith, in his official capacity as Treasurer, in making the final determination;
- (2) Make a final determination in AF# 2207 that Metal Lathers Local 46 PAC and Robert Ledwith, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$2,450; and
- (3) Send the appropriate letter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Final Determination Recommendation - ) AF 2207  
Metal Lathers Local 46 PAC and Robert )  
Ledwith, in his official capacity as )  
Treasurer (C00421008) )

CERTIFICATION

I, Shawn Woodhead Werth, Secretary and Clerk of the Federal Election Commission, do hereby certify that on April 29, 2011, the Commission decided by a vote of 6-0 to take the following actions in AF 2207:

1. Adopt the Reviewing Officer recommendation for AF# 2207 involving Metal Lathers Local 46 PAC and Robert Ledwith, in his official capacity as Treasurer, in making the final determination.
2. Make a final determination in AF# 2207 that Metal Lathers Local 46 PAC and Robert Ledwith, in his official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty of \$2,450.
3. Send the appropriate letter.

Commissioners Bauerly, Hunter, McGahn II, Petersen, Walther, and Weintraub voted affirmatively for the decision.

Attest:

April 29, 2011  
Date

Shawn Woodhead Werth  
Shawn Woodhead Werth  
Secretary and Clerk of the Commission

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

May 3, 2011

VIA CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Robert Ledwith, in his official capacity as Treasurer  
Metal Lathers Local 46 PAC  
1322 Third Avenue  
New York, NY 10021

C00421008  
AF# 2207

Dear Mr. Ledwith:

On December 15, 2010, the Federal Election Commission ("the Commission") found reason to believe ("RTB") that Metal Lathers Local 46 PAC and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) for failing to file the 2010 October Quarterly Report. By letter dated December 21, 2010, the Commission sent you notification of the RTB finding that included a civil money penalty calculated at RTB of \$2,450 in accordance with the schedule of penalties at 11 C.F.R. § 111.43. On January 24, 2011, the Office of Administrative Review received your written response, challenging the RTB finding and penalty.

The Reviewing Officer reviewed the Commission's RTB finding with its supporting documentation and the written response. Based on this review, the Reviewing Officer recommended that the Commission make a final determination that Metal Lathers Local 46 PAC and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assess a civil money penalty in the amount of \$2,450 in accordance with 11 C.F.R. § 111.43. The basis for the Reviewing Officer's recommendation was included in the Final Determination Report, a copy of which was sent to you on March 28, 2011.

On April 29, 2011, the Commission adopted the Reviewing Officer's recommendation and made a final determination that Metal Lathers Local 46 PAC and you, in your official capacity as Treasurer, violated 2 U.S.C. § 434(a) and assessed a civil money penalty of \$2,450. It is based on the same factors used to calculate the civil money penalty at RTB. A copy of the final determination recommendation is attached.

**If You Choose to Appeal the Final Determination and/or Civil Money Penalty**

If you choose to appeal the final determination, you should submit a written petition, within 30 days of receipt of this letter, to the district court of the United States for the district in which the committee or treasurer reside, or transact business, requesting that the final

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determination be modified or set aside. See 2 U.S.C. § 437g(a)(4)(C)(iii). The failure to raise an argument in a timely fashion during the administrative process shall be deemed a waiver of the respondents' right to present such argument in a petition to the district court under 2 U.S.C. § 437g. 11 C.F.R. § 111.38.

#### **If You Choose Not to Pay the Civil Money Penalty and Not to Appeal**

Unpaid civil money penalties assessed through the Administrative Fine regulations will be subject to the Debt Collection Act of 1982 ("DCA") as amended by the Debt Collection Improvement Act of 1996 ("DCIA"), 31 U.S.C. § 3701 et seq. If you do not pay this debt within 30 days (or file a written petition to a federal district court - see below), the Commission will transfer the debt to the U.S. Department of the Treasury ("Treasury") for collection. Within 5 days of the transfer to Treasury, Treasury will contact the debtor and request payment. Treasury currently charges a fee of 28% of the civil money penalty amount for its collection services. The fee will be added to the amount of the civil money penalty that you owe. Should Treasury's attempts fail, Treasury will refer the debt to a private collection agency ("PCA"). If the debt remains unpaid, Treasury may recommend that the Commission refer the matter to the Department of Justice for litigation.

#### **If You Choose to Pay the Civil Money Penalty**

If you should decide to pay the civil money penalty, send the enclosed form and payment to the address on page 3 within 30 days of receipt of this letter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. The file will be made a part of the public record pursuant to 11 C.F.R. § 111.42(b). Although the file must be placed on the public record within 30 days from the date of the Commission's notification, this could occur at any time following certification of the Commission's vote.

If you have any questions regarding the payment of the civil money penalty, please contact Dayna Brown on our toll free number (800)424-9530 (press 0, then ext. 1660) or (202)694-1660.

On behalf of the Commission,

  
Cynthia L. Bauerly  
Chair

Attachment

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Li  
**ADMINISTRATIVE FINE PAYMENT INSTRUCTIONS**

In accordance with the schedule of penalties at 11 C.F.R. § 111.43, the civil money penalty is \$2,450 for the 2010 October Quarterly Report.

This penalty should be paid by check or money order, made payable to the Federal Election Commission. It should be sent by mail to:

Federal Election Commission  
PO Box 979058  
St. Louis, MO 63197-9000

If you choose to send your payment by courier or overnight delivery, please use this address:

U.S. Bank - Government Lockbox  
FEC # 979058  
1005 Convention Plaza  
Attn: Government Lockbox, SL-MO-C2GL  
St. Louis, MO 63101

The form and payment are due within 30 days of receipt of this letter.

**PAYMENTS BY PERSONAL CHECK**

Personal checks will be converted into electronic funds transfers (EFTs). Your account will be electronically debited for the amount on the check, usually within 24 hours, and the debit will appear on your regular statement. We will destroy your original check and keep a copy of it. In case the EFT cannot be processed for technical reasons, you authorize us to process the copy in lieu of the original check. Should the EFT not be completed because of insufficient funds, we may try to make the transfer twice.

**PLEASE DETACH AND RETURN THE PORTION BELOW WITH YOUR PAYMENT**  
-----

FOR: Metal Lathers Local 46 PAC

FEC ID#: C00421008

AF#: 2207

PAYMENT AMOUNT DUE: \$2,450



FOR: Metal Lathers Local 46 PAC

FEC ID#: C00421008

AF#: 2207

PAYMENT AMOUNT DUE: \$2,450

3

QUALITY IS OUR PRIORITY FOR LOCKBOX 9058  
SEQ# 001 \$ 0000245000 BA# 1 05-19-11 20 4



**us bancorp.**  
The Bancorp. Company

**LOCAL 46 METALLIC LATHERS & REINFORCING IRON WORKERS POLITICAL ACTION FUND**  
1322 3RD AVE @ EAST 76TH STREET  
NEW YORK, NY 10021-3203

**1040**  
7-106270

DATE May 14, 2011

PAY TO THE ORDER OF FEDERAL ELECTION COMMISSION \$ 2,450.00

Two Thousand Four Hundred Fifty AND 00/100 DOLLARS

**HSBC**  
HSBC Bank USA, N.A. New York, NY 10021

FOR FEC ID# C00421008 / AF# 2207 Robert A. Sedwith

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FEDERAL ELECTION COMMISSION  
Washington DC 20463

THIS IS THE END OF ADMINISTRATIVE FINE CASE # 2207

DATE SCANNED 7-5-11

SCANNER NO. 2

SCAN OPERATOR CMU

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